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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Third periodic reports of States parties due in 1990

Addendum

CANADA */

[20 August 1990]

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*/ For the initial report submitted by the Government of Canada, see document CCPR/C/1/Add.43 and for its consideration see CCPR/C/SR.205-SR.208 and SR.211, or Official Records of the General Assembly, Thirtv-fifth session, Supplement No. 40 (A/35/40), paras. 154-196. For additional information submitted subsequent to the initial report, see document CCPR/C/1/Add.62 and for its consideration by the Committee see CCPR/C/SR.558-SR.560 and SR.562, or Official Records of the General Assembly, Fortieth session, Supplement No. 40 (A/40/40), paras. 176-250. For the second periodic report of Canada, see document CCPR/C/51/Add.1.

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INTRODUCTION

1. The present is the third report submitted by Canada under the International Covenant on Civil and Political Rights. It is being submitted, at the request of the United Nations Secretariat, as an update of the second report submitted in July 1989.

2. Canada is a federal state which is composed of ten provinces and two territories. In conformity with article 50 of the Covenant, which stipulates that its provisions shall extend to all parts of federal States, all governments in Canada are involved in the implementation of this treaty. Consequently, Canada's reports contain information on measures adopted by the federal government and each of the provincial and territorial governments. The present report contains a section prepared by each government.

PART I: GOVERNMENT OF CANADA

Article 2

Paragraph 3

3. On September 22, 1988, an agreement was announced to provide redress to Canadians of Japanese ancestry for injustices they suffered during and after the Second World War. The agreement includes: an official acknowledgement of the injustices; symbolic payments of $21,000 to those affected who are still living; a $12 million fund for the Japanese Canadian community; and a $24 million endowment for a Canadian Race Relations Foundation (see paragraph 56). By the end of March 31, 1990, the government had received approximately 18,000 applications for individual redress and had completed 15,000 of them.

Article 4

4. The new comprehensive federal emergencies bill, noted at para. 16 of Canada's Second Report, became law on July 21, 1988 as the *Emergencies Act*. The aspects of this legislation discussed earlier still apply. As well, s. 4(*b*) provides that the Act confers no authority to make orders or regulations providing for the detention, imprisonment or internment of Canadian citizens or permanent residents under the *Immigration Act* "on the basis of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability".

Article 5

5. The case of *John Ross Taylor et al. v. Canadian Human Rights Commission* (discussed at paras. 17-18 of the Second Report) was argued before the Supreme Court of Canada in December 1989. The Attorney General of Canada argued in support of s. 13 of the *Canadian Human Rights Act*, which prohibits the communication of hate messages by telephone. The Court's decision is pending. Two other cases, involving the hate propaganda provisions of the *Criminal Code* are discussed at art. 20.

READEX

Article 7

(i) U.N. Convention against Torture

6. On January 26, 1990, subsequent to Canada's ratification of the U.N. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Canada made declarations pursuant to articles 21 and 22 of the Convention, recognizing the competence of the Committee against Torture to consider communications from a state party or an individual that Canada is in violation of any of the provisions of the Convention.

(ii) Assistance to refugees who have been victims of torture

7. In February 1989, the government released the Report of the Canadian Task Force on Mental Health Issues Affecting Immigrants and Refugees. This Report revealed that little was known about the psychological devastation caused by torture and the means to help refugees in Canada who have suffered this horrendous treatment. Consequently, a follow-up study has been commissioned to examine how torture affects the mental health of refugees and how effective treatment strategies can be developed.

8. Some financial assistance is also given by the federal government to the Canadian Centre for Victims of Torture in Toronto. This Centre and the Vancouver Centre for Survivors of Torture provide both physical and psychiatric medical assistance, individual, family and group counselling, a referral service for legal and social assistance, and comprehensive language classes that take into account the victim's past traumatic experiences and their difficulties in adapting to Canadian life. As well, the Toronto Centre conducts information seminars with various sectors of the community, such as the police, boards of education, hospitals and health centres and social agencies. A medical protocol for doctors to examine torture victims and document their experience is also provided by the Centre.

(iii) Medical research project

9. At the 1988 Ministerial Conference on Human Rights, it was agreed that reports be prepared on the human rights implications of several medical/legal issues, including medical research on human beings, for presentation at the next Ministerial Conference. The report currently being prepared deals with such issues as basic principles of consent and qualifications to the consent requirement, safety and health, equity and non-discrimination, privacy and confidentiality, and freedom of research. The issue of how medical research is to be defined is also addressed, as well as the appropriate mode for implementing standards in this area.

10. As well, a Royal Commission was created in the Fall of 1989 to study new reproductive technologies. The Commission will conduct research and hold public hearings.

Article 8

11. In the context of protecting against child slavery, the *Criminal Code* was amended in 1988 to (1) create new offenses dealing with child sexual abuse, and (2) impose higher maximum penalties for the offenses of living off the avails of juvenile prostitutes, soliciting juveniles, and using the sexual services of a juvenile prostitute (Bill C-15).

Article 9

Paragraph 1

12. The Supreme Court of Canada has held that legislation authorizing police to stop motorists solely for the purpose of verifying their driving status or licenses, is a violation of the guarantee against arbitrary detention in s. 9 of the Charter. However, such detention is a justifiable limit in a free and democratic society pursuant to s. 1 of the Charter, in light of the public's interest in highway safety and the relatively minor nature of the intrusion (*Hufsky v. R., Ladouceur v. R.*).

13. The stopping of a motorist for an articulable cause, determined according to the particular circumstances of the case, is not considered to be arbitrary by the courts and is, therefore, not a violation of the guarantee against arbitrary detention (*Wilson v. R.*).

Paragraph 3

14. For the purposes of the right to be tried within a reasonable time under s. 11(*b*) of the Charter, it is the period between the laying of the charge and the conclusion of the trial that is relevant. Delay prior to the laying of a charge is protected by other sections of the Charter, such as s. 9 (right not to be arbitrarily detained) and s. 7 (right not to be deprived of liberty or security of the person except in accordance with the principles of fundamental justice) (*R. v. Kalanj*).

Paragraph 5

15. Other than the protection provided by the Charter, a victim of a violation of this right may also rely on laws governing civil liability to obtain compensation for damages suffered.

Article 12

16. In the context of the right in s. 6 of the Canadian Charter to reside and pursue the gaining of a livelihood in any province, the Supreme Court of Canada has stated that s. 6 permits a person to pursue a living throughout Canada, even if that person is not physically located in a particular province. Moreover, s. 6 is violated if a person is seriously disadvantaged in, although not totally precluded from, making a livelihood. Thus, a provincial law society rule which seriously impaired the ability of out-of-province lawyers to maintain a viable association with resident lawyers, was declared unconstitutional. (*Law Society of Alberta v. Black et al.*).

Article 14

Competent, independent and impartial tribunal

17. In Canada, candidates for judicial office were formerly screened by a committee of the Canadian Bar Association prior to appointment. However, in October 1988, independent committees were constituted for this purpose in each province and territory. The committees include a person chosen by the federal Minister of Justice to represent the community's interests. The committees also include representatives of the relevant provincial or territorial government, the judiciary, and the practising bar.

18. The criteria for appointment of federal judges are: (1) membership in good standing in a provincial or territorial law society and ten years at the bar, or a combined ten years at the bar and as a provincial court judge (*Judges Act*, s. 3); and (2) considerations of professional ability, integrity and general reputation in the community.

19. The Canadian Judicial Centre which began operations in 1988, was established to respond to the educational requirements of both federally and provincially appointed judges. Among other things, it designs and co-ordinates judicial educational services to meet the requirements of the Canadian judiciary in skills training, continuing professional education and professional enrichment. The Centre is managed by the judiciary and jointly funded by the federal, provincial and territorial governments.

Paragraph 2

20. The Supreme Court of Canada has held that the guarantee of the presumption of innocence in s. 11(*d*) requires the prosecution to prove each of the essential elements of a criminal offence beyond a reasonable doubt. Thus, a provision requiring an accused to disprove an essential element of a criminal offence on a balance of probabilities, violates s. 11(*d*) of the Charter (*R. v. Whyte, R.v. Oakes*).

Article 17

21. The Supreme Court of Canada has held that a demand for information and production of documents, pursuant to the *Income Tax Act*, for the purpose of validating income tax returns, did not contravene the protection against unreasonable search and seizure in s. 8 of the Charter. The Court stated that where a seizure takes place in the administrative or regulatory context, rather than in the criminal law context, less stringent requirements apply (*McKinlay Transport Ltd. v. The Queen*).

22. In *Duarte v. R.*, the Supreme Court of Canada held that surreptitious electronic surveillance of an individual by the state constitutes an unreasonable search and seizure, even where one of the persons being taped has consented. Such an intrusion on privacy is reasonable only where authorized by an independent judicial officer on the basis that (1) an offence has been or is being committed and (2) other investigative procedures have failed or are likely to fail or the urgency of the matter warrants the use of electronic surveillance.

Article 18

23. The *Mission of the Correctional Service of Canada* (a policy statement approved in February 1989) states that the Correctional Service "will accommodate, within the boundaries of the law, the cultural and religious needs of individuals and minority groups, provided the rights of others are not impinged upon", and further that it will "respect the social, cultural and religious differences of individual offenders".

Article 19

24. The Supreme Court of Canada has held that freedom of expression includes the right to express oneself in the language of one's choice (*Ford et al. v. A.G. Que.*), that it extends to commercial expression (*A.G. Que. v. Irwin Toy Ltd et al.*), and even to a prostitute's public communications with a prospective client (*Reference re Sections 193 and 195.1(1)(c)*

of the Criminal Code). However, in the latter case it held that *Criminal Code* restrictions on such communications are a reasonable limit under s. 1 of the Charter.

25. As well, freedom of expression extends to access to information, because such access is important in enabling individuals to make informed choices (*Ford et al. v. A.G. Que.*), and in ensuring the openness, integrity and independence of the courts (*Edmonton Journal v. A.G. Alta. et al.*).

Article 20

26. Decisions in *R. v. Keegstra* and *R. v. Andrews and Smith* are currently pending before the Supreme Court of Canada. These cases concern the validity of a limit on free expression arising from a *Criminal Code* prohibition on the dissemination of hate propaganda. Reference should also be made to *Taylor v. Canadian Human Rights Commission*, discussed under art. 5 of this Report.

Article 22

27. In *Lavigne v. Ontario Public Service Employee Union et al.* (appeal to the Supreme Court of Canada heard June, 1990), the Ontario Court of Appeal held that the inclusion of a mandatory dues check-off clause in a collective agreement did not infringe freedom of association as guaranteed by s. 2(*d*) of the Charter, of employees who were not union members (see para. 103 of Second Report).

Article 23

28. In 1990, after extensive consultations with the various religious communities in Canada, the *Divorce Act, 1985* was amended to preclude a party to a divorce action from obtaining a civil divorce where he or she has refused to cooperate in the removal of a religious barrier to the remarriage of the other spouse. This legislation was introduced to overcome a problem experienced in the Jewish community regarding the refusal by one spouse to grant the Jewish *get* or divorce to the other spouse, with the consequence that the latter was not free to remarry within the tenets of his or her religious faith, even though a civil divorce had been granted.

29. The Guiding Principles of the *Mission* of the Correctional Service of Canada recognize "the value of family and community relationships" and "that the establishment and maintenance of positive community and family relationships will normally assist offenders in their reintegration as law-abiding citizens".

Article 24

30. Canada signed the *Convention on the Rights of the Child* on May 28, 1990, and legislation and policies are currently being reviewed for consistency with the Convention, with a view to ratifying it as soon as possible.

31. Canada is one of the six States sponsoring the World Summit for Children, to be held in New York on September 29-30, 1990. Domestic preparations for the Summit include the development of a National Paper on the situation of children in Canada.

32. Section 209.2 of the *Canada Labour Code* was amended in 1987 to make it compulsory for employers to continue contributing to pension, health and disability plans for employees on child care leave.

Article 25

33. In *Osborne v. The Queen*, the Federal Court of Appeal struck down legislation prohibiting public servants from working for or against political parties and candidates (leave to appeal granted to the Supreme Court of Canada) (see para. 120 of the Second Report). In *Fraser v. Public Service Staff Relations Board*, the Supreme Court of Canada held that limits may be put on the right of public servants to speak on public issues in the interest of maintaining an impartial public service.

Article 26

(i) Charter cases

34. In *Andrews v. Law Society of British Columbia*, the Supreme Court of Canada held that the list of prohibited grounds of discrimination in respect of the s. 15 equality right in the Charter is not exhaustive, and that other distinctions based on analogous grounds are also subject to s. 15 review. In particular, it stated that a group may be entitled to the protection of s. 15 if it bears such indicia of discrimination as stereotyping, historical disadvantage or vulnerability to social and political pressure. In *Turpin et al. v. The Queen*, the Supreme Court emphasized that s. 15 must be interpreted and applied in terms of its central purpose of remedying and preventing discrimination against groups suffering social, political and legal discrimination in society.

35. In *R. v. Sheldon S.*, the Supreme Court of Canada held that it was not contrary to s. 15 for the *Young Offenders Act* to give provincial governments the option of whether or not to create alternative measures programs for young offenders, in light of the division of powers in Canada, and also the fact that the differentiation in question was not based on the personal characteristics of young offenders.

(ii) *Canadian Human Rights Act*

36. In *A.G. Canada v. Druken et al.*, the Federal Court of Appeal held that provisions of the *Unemployment Insurance Act* which precluded persons from obtaining unemployment insurance benefits where they had worked for their spouse, or a corporation more than 40% controlled by their spouse, discriminated on the basis of marital or family status (leave to appeal to Supreme Court of Canada denied). It also held that the *Canadian Human Rights Act* had primacy over other federal legislation.

37. In *Gauthier et al. v. Canadian Armed Forces*, a Human Rights Tribunal concluded that restrictions on the employment of women in the Canadian Armed Forces was discriminatory. The Tribunal ordered the full integration of women into the Canadian Armed Forces within 10 years, except for service on submarines. This decision has not been appealed.

38. Pursuant to the initiative described in para. 129 of the Second Report on the implementation of equal pay for work of equal value, in January 1990 the federal government announced retroactive payments of $317 million and ongoing adjustments of

$76 million for 62,000 federal public servants in female dominated employment groups. The Canadian Human Rights Commission is reviewing the offer to see if it meets the equal pay provisions of the *Canadian Human Rights Act.*

39. In 1987, the Canadian Human Rights Commission issued a policy on drug testing which accepts the potential need to test "for cause" and post accident in safety-sensitive positions. The Commission does not endorse random mandatory drug testing. In 1988, it issued a policy stating that persons suffering from AIDS/HIV infection are protected by the prohibition against discrimination on the basis of disability in the *Canadian Human Rights Act.*

40. An overall review is currently being conducted of the *Canadian Human Rights Act*, taking into consideration recent court cases, recommendations made by the Canadian Human Rights Commission and Parliamentary Committees, and amendments to provincial anti-discrimination laws. The review is examining the scope of the Act, including grounds of discrimination, procedures, and the structure of the mechanisms for enforcement of the Act.

(iii) Other developments

41. Since the *Employment Equity Act*, discussed in para. 136 of the Second Report, came into force in 1986, there have been two annual reports to Parliament consolidating and analyzing the employment equity data reported annually by employers who are covered by the Act. The 1989 Report shows a marginal increase over the 1988 representation of designated groups in the workforce.

42. So far, over 1,200 contractors have filed Certificates of Commitment pursuant to the Federal Contractors Program, discussed in para. 137 of the Second Report. Over 700 have received contracts, and of those, over 200 have been reviewed or are being reviewed for compliance. To date, two contractors were found not in compliance and sanctions were imposed until such time as acceptable employment equity plans were submitted and appropriate measures taken.

43. Amendments were made in June 1989 to the *Pension Act* (disabled veterans) and to all the major public service pension statutes to remove the provisions that suspended surviving spouses' pensions upon remarriage, and student allowances upon marriage. The amendments also ended, where applicable, the reduction of benefits to surviving spouses who are 20 or more years younger than the deceased plan contributor.

44. The *Unemployment Insurance Act* was amended in April 1988 to allow the father of a newborn child to receive paternity benefits, if he proves that it is reasonable to remain at home in order to care for the child by reason of the death or disability of the mother.

45. An assessment is underway of the impact of the 1985 amendments to the *Indian Act*, which removed sexually discriminatory provisions and permitted the reinstatement or registration of certain individuals as status Indians (see para. 132 of the Second Report). Due to the significant numbers of people reinstated or registered, additional funding has been provided to Indian bands.

46. The Report of the Royal Commission on the Donald Marshall, Jr. Prosecution, discussed at para. 100 of this report, highlighted the need to improve the criminal justice system in respect of indigenous people and visible minorities. The federal and provincial

governments have addressed each of the Royal Commission's 82 recommendations. Some of the federal measures which are being taken include (1) the establishment of a regular forum between the federal government, the province, and native associations to consult on aboriginal criminal justice issues and other issues of common concern, (2) the establishment of a national recruiting team for the Royal Canadian Mounted Police to increase the representation of indigenous people and visible minorities in the force, and (3) the development of educational programs for judges, police and lawyers to encourage sensitivity to minority concerns.

47. In March 1990, the Minister of Transport announced a *Strategy on Substance Abuse in Safety-Sensitive Positions in Canadian Transportation*; implementing legislation will soon be introduced. Also in March 1990, the Canadian Armed Forces announced a comprehensive strategy on alcohol and drug abuse control in the Canadian Armed Forces, which will include mandatory random testing for all members of the Canadian Armed Forces.

48. The federal government has introduced new measures to provide attendant services for federal employees with severe disabilities and to improve access to government buildings for persons with disabilities.

49. The government Report of the Task Force on Barriers to Women, released in April 1990, identifies and recommends solutions to barriers to the employment of women. Its key findings will be brought to the attention of managers and employees in order to increase awareness of the more subtle obstacles created by attitudes and corporate culture.

50. The federal government administers a Women's Program which finances the activities of women's groups seeking to improve the economic, legal and social situation of women and to facilitate their participation in the life of the country. During the fiscal year 1989-90, the Program distributed $11.2 million to more than 500 groups.

51. On May 10, 1990, the Government of Canada announced the renewal of the Court Challenges Program with funding of $13.75 million over a 5 year period (see para. 126 of the Second Report). The program provides financial assistance in test cases pertaining to equality and language rights of particular constitutional significance.

52. The *Canadian Multiculturalism Act*, described in para. 149 of the Second Report, was adopted in 1988. The Act sets out the Multiculturalism Policy of Canada, which is designed to preserve and enhance the multicultural heritage of Canadians and to achieve the equality of all Canadians in the economic, social, cultural and political life of Canada. The Act commits federal institutions to implement the Multiculturalism Policy throughout the Government of Canada.

53. The government announced four new Multiculturalism programming directions and additional resources to implement the Multiculturalism Policy. These directions include measures to promote its implementation across all federal institutions, and three new programs of financial and technical assistance, entitled Race Relations and Cross-Cultural Understanding, Heritage Cultures and Languages, and Community Support and Participation.

54. The Multiculturalism Secretariat was established to support the Minister in his coordination role and to assist in implementing multiculturalism commitments across the government.

55. In 1989, for the first time, a national public education campaign focused around March 21, International Day for the Elimination of Racial Discrimination. In 1990, the campaign was repeated and broaden to involve scores of partners across the country - including individuals and institutions - in the fight against racism.

56. Bill C-63 was tabled in February, 1990 to establish the Canadian Race Relations Foundation. The Foundation will serve as a national resource for community groups, researchers and the general public to further understanding of racism and racial discrimination in Canadian society, and to develop effective policies and programs in the area of race relations.

57. Bill C-18, *An Act to establish the Department of Multiculturalism and Citizenship*, was tabled in May, 1989. This new Department will deliver services in the program areas of multiculturalism, citizenship registration and promotion, literacy, voluntary action and human rights. At time of writing, Bill C-18 had received third reading in the House of Commons, and was moving through the Senate.

Article 27

(i) Constitutional cases

58. In *Sparrow v. The Queen*, the Supreme Court of Canada confirmed that s. 35 of the *Constitution Act, 1982*, which recognizes and affirms the aboriginal and treaty rights of Indian, Inuit and Métis people, provides substantive protection to existing aboriginal and treaty rights by ensuring that governments do not unduly interfere with the exercise of those rights. In the case of fisheries, the Court stated that, after conservation and management concerns have been addressed, priority must be given to indigenous food fishing and fishing for ceremonial purposes. Only then will the non-native fishery be accorded its share.

59. In *Société des Acadiens v. Association of Parents* and *R. v. Mercure*, the Supreme Court of Canada, while affirming that language rights are fundamental human rights, held that the legislative process, rather than judicial interpretation, is the appropriate means for advancing language rights beyond the basic guarantees set forth in ss. 16-20 of the Charter.

60. In *Mahé et al. v. Attorney General of Alberta*, the Supreme Court of Canada decided that s. 23 of the Charter includes the right of minority language groups to manage and control their own school facilities.

(ii) Other developments

61. The Legal Studies for Aboriginal Peoples Program offers financial assistance to Métis and Non-Status Indian Students to attend a pre-law summer orientation program and then law school for three years. The budget level for this Program is $296,970, and since its inception in 1973 eighty recipients of financial assistance have obtained law degrees.

62. In 1989, the Canadian Aboriginal Economic Development Strategy was established, which provides long-term employment and business opportunities to aboriginal men and women, by giving them the means to manage effectively their own business enterprises, economic institutions, job training and skill development.

63. As of March 1990, self-government proposals were being negotiated with a total of 161 Indian communities across Canada. Tripartite self-government negotiations, which involve the federal government, Métis and off-reserve aboriginal peoples, and the provinces concerned, are also underway in Ontario, Manitoba and Prince Edward Island.

64. Since 1987, significant steps have been made towards settling comprehensive land claims in the North: final agreements regarding the Dene-Métis comprehensive land claim and the Yukon Indian land claim were initialled, and an agreement in principle regarding the Tungavik Federation of Nunavut land claim was signed. This latter agreement involves 349,623 square kilometres of land without surface rights, 36,257 square kilometres of land with surface rights, and $580 million in financial compensation, as well as guaranteeing wildlife harvesting rights, participation in decision-making structures dealing with land and environmental management, and resource royalties.

65. Fifty specific land claim settlements were negotiated in 1989-1990, dealing with grievances arising from governmental management of Indian land and resources, or for fulfilment of entitlement due under a treaty.

66. The federal government also provides financial support to aboriginal organizations off-reserve which foster aboriginal people's full participation in the social, political and economic structures of decision making in Canada. Further, the Government has concluded aboriginal language agreements with each of the Northwest Territories and the Yukon which provide the necessary support for policy implementation.

67. The federal government has approved a Northern Political and Economic Framework, and so confirmed its commitment to the political evolution of the North, where aboriginal people are the majority in many areas. The elements include: transferring responsibility for programs to the territorial governments, settling land claims in an expeditious fashion, ensuring a full debate on division of the Northwest Territories and developing strong and stable economies.

68. The *Canadian Multiculturalism Act*, described under Article 26, was enacted in 1988. It provides a legislative basis for the three multicultural Programs noted under Article 26. Two of these (Heritage Cultures and Languages, and Community Support and Participation) support, in a proactive manner, the requirements of Article 27.

69. In September, 1989, Bill C-37 was tabled to establish a Canadian Heritage Languages Institute, the purpose of which is to encourage the preservation and use of heritage languages throughout Canada. It will focus on national teacher training and program development, the production of Canadian-oriented teaching materials, public education and research into all aspects of Canada's heritage languages. At time of writing, Bill C-37 has been referred to a Legislative Committee of the House of Commons.

70. In 1988, Parliament adopted the new *Official Languages Act*, described in para. 143 of the Second Report, which reinforces the linguistic rights of all Canadians. The Act, which provides that the English and French languages have equality of status in all institutions of the Parliament and government of Canada, applies to all federal institutions in the country. It also recognizes the commitment of the Government of Canada to enhancing the vitality and supporting the development of English and French linguistic minority communities of Canada.

PART II: GOVERNMENTS OF THE PROVINCES

NEWFOUNDLAND

71. Newfoundland's submission to this report will update to May, 1990, the information contained in Canada's Second Report under the Covenant.

Article 2(3)

72. Amendments have been made to the procedural provisions of *The Newfoundland Human Rights Code*, now *The Human Rights Code, 1988*, S.N. 1988, c. 66. The new procedure authorizes the Human Rights Commission to refer complaints, which could not be settled, to a Board of Inquiry chosen from a panel of persons appointed for that purpose. The Board has broad powers to inquire into the complaint and to make an appropriate order. The order may be filed with the Supreme Court and is enforceable in the same way as a judgment of that court.

Article 7

73. Relevant information is found in Newfoundland's submission to Canada's Initial Report under the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.*

Article 10(3)

Adults

74. The scope and diversity of programs available to adults incarcerated in a provincial correctional facility varies with the institution. In general, there are three main categories of programs: (1) Personal and Social Development, which includes programs such as life skills (instruction in fundamental adaptive abilities such as budgeting, interpersonal relations, job seeking, etc.), addictions therapy (Alcoholics Anonymous and other self-help groups), volunteer work release (inmates providing services to non-profit community agencies), chaplaincy (religious services, bible studies, counselling), temporary absence (conditional release to community), physical fitness (various recreational opportunities), group counselling for sex offenders, and job exploration; (2) Academic and Vocational, which includes programs such as literacy training, tutoring (by volunteers), academic upgrading, computer technology, food services, carpentry, masonry, typing, university courses, handicrafts, and small engine repair; and (3) Forestry and Agriculture, which includes programs such as dairy farming, poultry, forestry, and agriculture.

Youths

75. Youths who have been sentenced to a period of secure custody are segregated from adult offenders. Placement in a facility depends on the characteristics and needs of the individual youth.

76. The underlying philosophy of the facilities focuses on rehabilitation of the young offender, and programs are directed to this goal. Educational programs include the mainstream junior and senior high school curriculum, special education, academic upgrading, vocational training and work experience. Where offenders will be in the facility for less than an entire school year, liaison is maintained with the youth's school in the community to facilitate transfer back to that school. Other programs include: life skills programs which focus on independent living skills, social and recreational activities and spiritual development.

77. Where young offenders of native ancestry are held in a facility an attempt is made to involve persons from such organizations as the Native Friendship Centre. In addition to contact within the facility, depending on security concerns, the young offender may be permitted contact in the community with persons associated with the Centre or with other appropriate persons.

78. While girls comprise less than 10% of young offenders held on remand or in secure custody, the programs available to them are the same as those available to boys.

Article 11

79. Enforcement of contractual obligations is through civil proceedings. Section 132 of *The Judicature Act, 1986* provides that a person may not be arrested and held to bail in any civil proceeding.

Article 14(3)(*d*)

80. Pursuant to *The Legal Aid Act*, S.N. 1975, c. 42, legal assistance is available to an accused who meets specified criteria and who is financially incapable of engaging counsel. Assistance is provided without charge or with a partial charge depending on the ability of the applicant to pay a portion of the costs. In general, assistance is available to an accused charged with an indictable offence and to a person charged with a summary conviction offence if, upon conviction, imprisonment or loss of means of earning a livelihood is likely.

Article 14(3)(*f*)

81. Where an accused requires the assistance of an interpreter, one will be appointed and paid for by the court.

Article 14(4)

82. *The Young Persons' Offenses Act*, S.N. 1984, c. 2, which deals with the procedure applicable to young offenders, recognizes special considerations relevant to the immaturity of the offender and the importance of rehabilitation. The Act deals with such considerations as: the provision of youth courts, notice to parents, alternative measures, disposition alternatives, procedures relevant to the making of a custody order, and disclosure of the youth's record.

Article 23(4)

83. Pursuant to Part III of *The Family Law Act*, S.N. 1988, c. 60, which replaces *The Matrimonial Property Act*, every spouse has an obligation to provide for himself or herself

and for the other spouse, in accordance with need, to the extent that he or she is capable of so doing. In addition, every parent has an obligation to provide support, based on the same criteria, for his or her child who is a minor and unmarried.

84. *The Children's Law Act*, S.N. 1988, c. 61, provides that applications to the courts in respect of custody of and access to children will be determined on the basis of the best interests of the child. Relevant criteria are set out in section 31. Under the Act, the courts are given broad authority to make appropriate orders to ensure enforcement of custody and access orders. For example, wrongful denial of access may result in a court ordering compensatory access periods, supervision by the Director of Child Welfare or the appointment of a mediator.

85. Pursuant to *The Support Orders Enforcement Act*, S.N. 1988, c. 58, the office of the Director of Support Enforcement is created. The Director's mandate is to enforce support orders registered under the Act in a manner that appears practicable. Where appropriate, the Director may initiate garnishment or take proceedings in court.

Article 24(1)

86. *The Children of Unmarried Parents Act*, referred to in the second Report, has been repealed. *The Children's Law Act* provides that, for all purposes of the law, a person is the child of his or her natural parents, whether the child was born inside or outside marriage. Upon adoption, the child is, in law, the child of the adopting parents as if they were the natural parents.

87. Pursuant to *The Child Welfare Act, 1972*, S.N. 1972, c. 37, a Judge may declare a child to be a child in need of protection, and may make an order with respect to the future of the child where it appears that the interests of the child and the public interest would best be served by the order.

PRINCE EDWARD ISLAND

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88. The purpose of this report is to update the information provided for the Prince Edward Island section of the Second Report of Canada on the *International Covenant on Civil and Political Rights* submitted in July 1989.

Article 2

89. The *Human Rights Act*, R.S.P.E.I. 1988, c. H-12, was amended in June 1989 to clarify the definition of political belief contained in the Act which had been adjudged by the Supreme Court of Prince Edward Island to be incapable of definition in a decision rendered in March 1988. The Act now defines political belief as being that association with a political party which is registered pursuant to the *Election Act*, R.S.P.E.I. 1988, c. E-1.

90. This amendment to the *Human Rights Act* authorized the application of the new definition to complaints previously filed under the Act.

Article 3

91. The *Pay Equity Act*, R.S.P.E.I. 1988, c. P-2, was passed in 1988 to achieve pay equity by redressing systemic gender discrimination in wages paid for work performed by employees in female-dominated classes and to maintain pay equity in the public sector.

Article 23

92. The *Family and Child Services Act*, R.S.P.E.I. 1988, c. F-2, was amended in 1990 requiring the reporting of any act of abandonment, desertion, or abuse of a child no matter who was carrying out such an act. Previously, the compulsory reporting obligation in the Act was only required when the act of abandonment, desertion, or abuse was carried out by the person responsible for the care and well-being of the child.

93. The Legislature of Prince Edward Island passed the *Maintenance Enforcement Act*, R.S.P.E.I. 1988, c. M-1, in 1988. This Act provided a comprehensive system of enforcement of maintenance orders and the mechanisms whereby maintenance could be obtained in support of the family from a defaulting spouse. This Act removes the cost imposed in attempting to collect maintenance arrears from the recipient spouse and provides provincial employees with the power to collect on behalf of that individual.

Article 4

94. In 1990, the Legislature of Prince Edward Island passed the *Youth Employment Act*, S.P.E.I. 1990, c. 66, (not proclaimed yet) which provides protection for young persons, being persons under the age of 16 years, from employment that is or is likely to be harmful to the health or safety, or moral or physical development of the young person. The Act also provides that young persons may not be employed during school hours or between 11:00 p.m. and 7:00 a.m.

NOVA SCOTIA

Article 2

95. As a result of the Revised Statutes of Nova Scotia 1989, the *Human Rights Act*, S.N.S. 1969, c. 11, is now cited as *Human Rights Act*, R.S.N.S. 1989, c. 214.

96. An improved *Freedom of Information Act* was introduced by the Government in May 1990. This proposed Act will increase access to government information by the public.

97. In April 1989 the Government appointed a Victim Services Co-ordinator whose duties include the promotion of research into victims services, needs and concerns, and making recommendations on policies respecting services for victims of crime. The *Victims' Rights and Services Act*, S.N.S. 1989, c. 14, which came into force in January 1990 provides for a Victims' Assistance Fund and its monies are obtained through a 15% surcharge on fines levied under provincial statutes.

Article 3

98. The *Pay Equity Act*, R.S.N.S. 1989, c. 337, which came into force in September 1988, provides for comparison of work being performed by employees in female and male dominated classes. Pay equity will be accomplished in two phases, the first phase to be completed by September 1990 will include civil servants, corrections employees, highway workers and two hospitals. The second phase will extend to employees of Crown corporations, other hospitals and school boards.

99. As a result of the decision in *Jan Bartholdy and the Nova Scotia Human Rights Commission v. Nova Scotia Department of Health and Fitness (Vital Statistics Division)* in August 1989, births may now be registered in a script or alphabet different from the Roman (English) characters in recognition of the fact that the names of children in their mother tongue may be different than names of children in Roman (English) alphabet used in Nova Scotia.

Article 9

100. The Royal Commission on the Donald Marshall, Jr. Prosecution established to investigate the circumstances of this Micmac Indian wrongfully convicted for murder and imprisoned for 11 years submitted its report in January 1990. The Royal Commission found that the criminal justice system failed Donald Marshall, Jr. at virtually every turn from his arrest and conviction in 1971 up to, and even beyond, his acquittal by the Supreme Court of Nova Scotia (Appeal Division) in 1983. The Province of Nova Scotia did not reject any of the 82 recommendations of the Royal Commission and the Minister Responsible has promised expeditious implementation of the recommendations which include:

(1) A compensation inquiry was appointed to review the adequacy of the compensation paid to Marshall in light of the findings of the Royal commission. This inquiry submitted its report on July 13, 1990. The Commissioner, although recognizing that no dollar figure can replace lost years, lost opportunities or compensate for the injury sustained by Donald Marshall, Jr. and his parents, recommended cash payments of $199,872 to Donald Marshall, Jr. and $80,023 to Mr. & Mrs. Marshall. The Commissioner also recommended that a lifetime annuity be provided to Donald Marshall, Jr. starting at $1,875.00 per month indexed at 3.00% per annum and that a lifetime annuity be provided to Mr. & Mrs. Marshall starting at $600.99 per month indexed at 3.00% per annum.

The Government of Nova Scotia has agreed to implement the recommendations immediately.

(2) The establishment of a Race Relations Division within the Nova Scotia Human Rights Commission has been approved by Government and is expected to be in place by the end of 1990.

(3) Legislation establishing the position of an independent Director of Public Prosecutions is currently before the House of Assembly and is expected to be passed by the closing of the session. The Director of Public Prosecutions is responsible for all prosecutions and appeals conducted on behalf of the Crown, and conducts them independently of the Attorney General.

Article 10

101. The Department of Solicitor General was established in 1987 and took over the areas of policing and correctional services in the province. The Attorney General continued to be responsible for the administration of justice through the courts. The purpose of this division was to further delineate the separation between the investigatory process and the prosecution process.

Article 24

102. *An Act Respecting Services to Children and Their Families, the Protection of Children and Adoption*, Bill 89, passed the third reading in June 1990. This Act, expected to come into force in September 1991, affirms the Government's commitment to maintain the family as the basic unit of society and requires that the paramount consideration, in all proceedings and matters pursuant to the Act, be the best interest of the child. Section 13(1) of the proposed Act states that:

> "Where it appears to the Minister or an agency that services are necessary to promote the principle of using the least intrusive means of intervention and, in particular, to enable a child to remain with the child's parent or guardian or to be returned to the care of the child's parent or guardian, the Minister and the agency shall take reasonable measures to provide services to families and children that promote the integrity of the family."

Article 27

103. As a result of the appeals in *Denny, Paul and Sylliboy v. Her Majesty the Queen*, 1990, S.C.C. 01965, S.C.C. 01966, S.C.C. 01983, Nova Scotia Micmacs won a major victory in their fight for aboriginal rights. The Supreme Court Appeal Division ruled that Micmacs have unextinguished aboriginal rights to fish for food, once the needs of conservation have been met, in waters on or off reserves throughout the Province.

104. In a separate case, a motion for acquittal made by Defense Counsel was not objected to by Crown Counsel resulting in a directed verdict and the acquittal of 14 Micmac hunters charged with various violations of the Nova Scotia *Wildlife Act*, R.S.N.S., 1989, c. 504.

NEW-BRUNSWICK

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105. Canada's first and second reports have provided information concerning New Brunswick legislation which gives effect to the provision of articles 1 to 27 of the Covenant. This report sets out measures which have been or are being undertaken since the Second Report of July 1989 was compiled.

Article 2

106. The *Human Rights Act*, R.S.N.B. 1973, c. H. 11, has undergone an extensive review in the past year with a view to ensuring that the orientation and scope of the Act provides sufficiently for the protection of human rights in the province.

Article 3

107. The *Pay Equity Act*, 1989, c. P-5.01, applies to all government employees in Part I of the Public Service as set out in the First Schedule of the *Public Service Labour Relations Act*. The *Pay Equity Act* sets out procedures for the application of a gender-neutral job evaluation system to ensure that men and women performing work of equal or comparable value receive equal pay. The Act is administered by the Pay Equity Bureau of the Board of Management.

Article 9

108. Amendments to the *Mental Health Act*, R.S.N.B. 1973, c. M-10, passed in May 1989 but not yet proclaimed, address any possible inconsistencies with the *Canadian Charter of Rights and Freedoms* and are designed to better protect the rights of patients in mental health facilities.

109. The *Mental Health Commission of New Brunswick Act*, 1989, c. M-10.1, was proclaimed April 1, 1990. It provides for a Commission to be established to make recommendations to the Minister of Health and Community Services and, at the direction of the Minister, to implement policy decisions made by the Minister respecting the manner in which mental health services are provided and delivered.

Article 14

110. An amendment to the *Provincial Court Act*, R.S.N.B. 1973, c. P-21, passed in June 1990, will, when proclaimed, establish three positions for lay representation on the Judicial Council of New Brunswick. This council reviews complaints resulting from the conduct of a member of the provincial judiciary.

Article 27

111. The provisions of Canada's *Multiculturalism Act* are complemented in the province by New Brunswick's *Policy on Multiculturalism* which was tabled in the Legislature on April 29, 1986. The Policy provides for a Ministerial Advisory Committee on Multiculturalism to assist in ensuring equality of and participation by all cultural groups in all aspects of the life of the province and appreciation and preservation of all cultural heritages.

QUÉBEC

Introduction

112. The Government of Québec committed itself to complying with the *International Covenant on Civil and Political Rights* by adopting Order in Council 1438-1976 on April 21, 1976.

113. The following report contains information on the measures taken by Québec to implement the Covenant since the second report, submitted in July 1989.

Part I: General

114. Since the submission of the last report, Québec has contributed to all the reports of Canada on implementation of the international human rights covenants and conventions to which it adheres. All of these reports have been submitted to the United Nations or to its specialized or related organizations.

Part II: Information on articles 3, 7, 10, 22, and 25(*b*)

Article 3

115. In 1985, amendments to Québec's *Charter of Human Rights and Freedoms* came into force. This represented the starting point of an overall strategy of intervention on the part of Québec aimed at taking concrete and significant initiatives in the area of affirmative action. In Decision 87-246 of September 23, 1987, the Government of Québec adopted the contractual compliance program (see paragraph 434 of the second report). The Human Rights Commission was given the mandate to evaluate the performance of companies and government consultants with respect to this program. By the end of 1989, twenty or so companies were already subjected to the program, while 72 other files not dealing with this program were being dealt with by the Affirmative Action Branch (see paragraphs 428 to 432 of the second report).

116. Among the various measures it has taken, the Government of Québec has provided professional and financial support for implementing affirmative action programs in the private, quasi-public and municipal sectors. To date, 62 municipalities and establishments in the education, teaching, and health and social services fields, as well as 17 private-sector companies, representing 408 establishments or plants, have obtained assistance from the Government to set up an affirmative action program. Under the same plan, the Québec Government implemented an affirmative action program in September 1987 and March 1990, designed to increase the proportion of women in certain Public Service employment categories and to help members of cultural communities gain access to the Public Service.

117. In October 1987, the Human Rights Commission adopted a position on workplace harassment. Two years later, a policy designed to counter sexual harassment in the workplace was issued to employers.

118. In June 1989, the National Assembly passed legislation specifying the mandate of the Human Rights Commission and creating a special tribunal with the power to make binding decisions in cases of discrimination (*Act to amend the Charter of human rights and freedoms concerning the commission and establishing the tribunal des droits de la personne*, SQ, 1989, c 51).

119. During the same session in June 1989, the National Assembly passed the *Act to amend the Civil Code of Québec and other legislation in order to favour economic equality between spouses* (SQ, 1989, c 55). The Act came into force July 1, 1989.

Article 7

120. In early 1989, Québec contributed to the first report of Canada on the implementation of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or*

Punishment. Furthermore, on November 17, 1989, Québec was involved in presenting the report of Canada to the UN Committee of experts charged with implementing this Convention.

Article 10

121. The question of juvenile offenses and of the distinction between intervention mechanisms for youth protection and for juvenile delinquency will be dealt with in Québec's section of the second report of Canada on articles 10 to 15 of the *International Covenant on Economic, Social and Cultural Rights*.

Article 22

122. The Human Rights Commission issued a notice on October 9, 1989, regarding the *Bill to establish the Commission des relations du travail* (33rd legislature, 1st session, p 1.30). This notice confirmed that, in general, the Bill was compatible with the *Charter of Human Rights and Freedoms*.

Article 25(*b*)

123. In 1988, the Commission permanente des institutions de l'Assemblée nationale was called upon to study the *Election Act* (RSQ, c E-3.2). The Human Rights Commission submitted a brief to the Commission containing recommendations dealing with the right of the mentally ill to vote and with third-party assistance during election periods.

ONTARIO

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124. This report updates the information in the First and Second Reports.

Article 2

125. Amendments to the *Human Rights Code* providing for a duty to accommodate the needs of disabled persons short of undue hardship, bearing in mind cost and safety factors, were proclaimed in April, 1988.

126. The Office of the Public Complaints Commissioner, established under the *Metropolitan Toronto Police Force Complaints Act*, S.O. 1984, c. 63, provides a remedy for citizens who complain about the actions of police officers, in Metropolitan Toronto, including allegations of discriminatory treatment. The Office provides for civilian review and adjudication of complaints by the public against members of the police force.

127. Bill 107, the *Police Services Act*, was passed in June 1990. When proclaimed, Part VI of the Act will establish a mechanism for province-wide civilian review of complaints against the police based on the model referred to above. In addition, the Public Complaints Commissioner will have the power to initiate a complaint about the conduct of a police officer when directed to do so by the Attorney General. The *Police Services Act* also contains provisions requiring police forces to implement employment equity plans to hire women, racial minorities, persons with disabilities and Aboriginal peoples.

Article 3

128. A number of steps have been taken in the Ontario Public Service to implement the *Pay Equity Act* referred to in the Second Report. Three different pay equity plans were required: one for employees in the bargaining unit, one for management/excluded employees and one for employees in the Ontario Provincial Police Association. The plans were implemented effective January 1, 1990, affecting 31,200 employees.

129. In 1987, the Ontario Government approved a plan to implement an Employment Equity Program in the Ontario Public Service for five designated groups: women, racial minorities, francophones, Aboriginal peoples and persons with disabilities. An Employment Equity Fund of $23.5 million was announced in November 1989 to assist ministries in implementing the plan.

Article 6

130. Effective January 1, 1990, premium payments for entitlement to benefits under the Ontario Health Insurance Plan (OHIP), a comprehensive health plan available to all Ontario residents, (see Second Report), have been eliminated and replaced with a payroll tax, thus ensuring universal coverage, and eliminating the need for premium assistance to low income persons.

131. Substantial amendments to the *Workers Compensation Act* between 1983 and 1986 have revised the structure of the system for providing benefits to injured workers discussed in the First Report. Changes include restructuring of the appeal process, including an independent final level of appeal, and restructuring of benefits. Legislation proclaimed into force on January 1, 1990, provides for further reforms to the workers compensation system. The more significant changes include: improvement of the rights of persons permanently disabled from workplace accidents; a right to be reemployed following injury; and a new approach to rehabilitation.

132. Amendments to the *Occupational Health and Safety Act* which received Royal Assent on June 21, 1990, have created more extensive responsibilities in the area of health and safety in the workplace, to be jointly administered by employers and employees. The legislation has also created a new bipartite agency, the Workplace Health and Safety Agency.

Article 9

133. The *Provincial Offenses Act*, R.S.O. 1980, c. 400, as amended, replaces the *Summary Convictions Act* (see First Report) with a new procedure for arrest and prosecution of provincial offences, in order to distinguish between the procedure relating to summary criminal offences (a matter of federal jurisdiction) and provincial offences. The latter is intended to be a less formal procedure. The Act provides for, among other matters, limited powers of arrest and provisions relating to release.

Article 10

134. The *Training Schools Act* referred to in the First Report has been repealed. The *Child and Family Services Act*, S.O. 1984, c. 55, referred to in the Second Report

incorporates revised provisions relating to open and secure custody facilities for children under the age of 16, and provides for review mechanisms.

Article 11

135. Bill 161, which has been given first reading, would, if passed by the Legislature, abolish the *Fraudulent Debtors Arrest Act* referred to in the First Report.

Article 12

136. The *Mobility Rights Statute Law Amendment Act*, S.O. 1985, c. 5, amends certain Ontario statutes to conform with the requirements of the *Charter of Rights* ensuring liberty of movement in relation to employment.

Article 14

137. Amendments to the *Courts of Justice Act, 1984* in 1988 and 1989 provide for expanded rights of access to court proceedings in the French language. All proceedings in all courts can be conducted in either official language.

138. Summons and informations issued pursuant to the *Provincial Offenses Act* are issued in both French and English (this will be a legal requirement effective January 1, 1991).

139. The *Intervenor Funding Project Act*, S.O. 1988, c. 71, provides for a three year pilot project to provide financial assistance to public interest groups intervening in proceedings before three administrative tribunals, the Environmental Assessment Board, the Ontario Energy Board and the Joint Board.

Article 18

140. The *Retail Business Holidays Act*, R.S.O. 1980, c. 453, provided for certain exemptions to the requirement that retail businesses be closed on Sundays. Although these provisions were upheld by the Supreme Court of Canada as not infringing freedom of religion, substantial amendments to the Act and to the *Employment Standards Act* were made in 1989 to provide for a new scheme governing work on Sundays and other holidays, including a mechanism for resolving disputes between employers and employees who do not wish to work on Sundays or other holidays. This scheme was recently declared unconstitutional by the Ontario Supreme Court and an appeal of this decision is pending.

141. Religious freedom in the context of education in Ontario is under review following recent decisions by the Ontario Court of Appeal. The case of *Zylberberg v. Sudbury Board of Education*, 65 O.R. 4th, 651, invalidated the provision for daily recitation of the Lord's Prayer on the grounds that it is limited to Christian observance. A new Regulation under the *Education Act* specifies that daily readings are permitted so long as they are not limited to one religion exclusively. The case of *Canadian Civil Liberties v. Elgin County Board of Education*, 71 O.R. 4th, 341, invalidated regulations which provided for religious instruction in schools.

Article 20

142. The *Human Rights Code*, S.O. 1981, as amended, replaces the Code referred to in the First Report. Section 12 prohibits the publishing or displaying of any representation which either indicates an intention to infringe a right protected by the Code or is intended to incite the infringement of a right.

Article 22

143. Pursuant to an amendment to the *Labour Relations Act* it is now illegal for an employer to hire professional strike breakers or to engage in strike related misconduct.

144. Recent amendments to the *Labour Relations Act* permit the Ontario Labour Relations Board to impose a first collective agreement on the parties where attempts at negotiating have been unsuccessful and it appears one party has been intransigent.

Article 23

145. The *Children's Law Reform Amendment Act, 1989*, S.O. 1989, c. 22, provides for a quicker and less expensive remedy for problems relating to access to children following marriage breakdown. Both the parent with custody and the parent with access may apply to enforce access orders.

Article 24

146. Amendments to the *Vital Statistics Act* allow parents to give a child the surname of either parent or a combination of both, irrespective of marital status, provided both parents consent. If parents cannot agree, children will received a hyphenated name.

147. The new *Change of Name Act*, S.O. 1986, c. 7, provides that, following marriage breakdown, the spouse with lawful custody may apply to change the name of children of the marriage. Consent of the non-custodial parent is only necessary where required pursuant to a court order or a separation agreement.

Article 25

148. Amendments to the *Municipal Elections Act* in 1988 ensure that polling places are accessible to persons with mobility impairments.

Article 26

149. A number of changes to the regulatory scheme governing pensions in Ontario were made in the new *Pension Benefits Act*, S.O. 1987, c. 35, and companion amendments to the Regulations under the *Employment Standards Act* to provide for equal treatment for men and women in pensions. Changes include the elimination of sex-based mortality tables for calculating contributions and benefits, reduction of years of service requirements for vesting, improved portability coverage and treatment of part-time workers, extension of survivorship benefits and pension splitting on marriage breakdown and retirement.

150. The provisions in the *Employment Standards Act* providing for special permits for handicapped persons, which enabled payment of less than the minimum wage, have been repealed.

151. Amendments to the Regulations under the *Employment Standards Act* removed differential treatment of most domestic workers in regard to wages and working conditions.

Article 27

152. The Ontario Policy on Race Relations, announced in 1986, sets out the government's commitment to equality of treatment and the removal of barriers to the full participation in society of racial and ethnic minorities. The policy indicates that the Government will take an active role in eliminating racially and ethnically discriminatory practices, implementing employment and service equity, enforcing laws relating to racial equality, and specifically indicates that doctrines of racial superiority are unacceptable.

153. In December 1989, the Ontario Government announced its Guidelines for the Negotiation of Self-Government arrangements with Aboriginal peoples in Ontario.

154. The Ontario Native Affairs Directorate is a special purpose office in the Ontario Government which advises and assists the Government's response to issues and concerns of Aboriginal peoples, and provides support to the Minister Responsible for Native Affairs. The Directorate's goal is to assist the Government of Ontario to create opportunities and initiatives which advance the rights and aspirations of Aboriginal peoples, contribute to an improvement in their quality of life, and resolve issues of concern within the authority, responsibility, resources and priorities of the Government of Ontario.

MANITOBA

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155. In 1979, Manitoba reported at length on its efforts to implement the provisions of the *International Covenant on Civil and Political Rights*. That report was updated in 1983, and again in 1987. The present report will therefore only highlight developments since the 1987 update, and comment briefly on several initiatives that had been enacted immediately prior to that report, but were actually put into operation subsequently.

1. Extraordinary powers of government

B. Deprivation of physical liberty

156. There have been substantial modifications to *The Mental Health Act* with respect to provisions permitting the involuntary detention of individuals at psychiatric facilities. In addition, *The Public Health Act* has been amended to extend provisions related to reportable diseases to HIV infection/AIDS, albeit on a non-nominate basis.

C. Restriction of freedom of expression

157. The Government is actively studying the extension of the classification system, created pursuant to *The Amusement Act*, to the video industry.

158. The reference in the 1987 report to the *Human Rights Code*'s restrictions on hate literature requires clarification. The Code, in fact, does not regulate hate literature or hate propaganda per se. This area has been left exclusively to the *Criminal Code* (federal). However, the *Human Rights Code* does limit freedom of expression to some degree through the prohibition of unreasonable discrimination in the form of sexual, racial and other forms of harassment, and the prohibition of signs and statements which discriminate or indicate an intention to discriminate with respect to any activity or undertaking to which the Code applies (e.g. housing, employment, and so on), or which incite, advocate or counsel such discrimination.

F. Other restrictions

159. *The Highway Traffic Act* was amended in 1989 to permit the seizure and temporary impoundment of vehicles driven by suspended drivers, and the imposition of immediate suspension of driver's licence upon individuals found operating vehicles while impaired by alcohol/drugs. The legislation also contains a detailed administrative appeal process for those persons who are alleged to contravene the legislation.

2. Protection of citizens from abuse of the government's extraordinary powers

160. Our previous report mentioned *The Freedom of Information Act*, which had been enacted but not proclaimed. This legislation was subsequently proclaimed on September 30, 1988. In the calendar year 1989, more than 500 applications were received, pursuant to the legislation. Two hundred and nineteen (219) requests were granted in full, 147 were granted in part, and 118 were denied. By far the greatest reason for refusal to provide information was the exemption set out in s. 41(1), namely that the record contained personal information on an individual or individuals. (This exemption provides a significant privacy protection to individuals).

161. The Aboriginal Justice Inquiry was set up by legislation in 1989, to examine in detail the interaction between Manitoba's aboriginal peoples and all aspects of the justice system (policing, the courts, legal aid, etc.). The Commissioners are expected to submit their report in the near future.

162. Amendments to *The City of Winnipeg Act* in 1989 included provisions for the creation of a city ombudsman, whose functions, at a municipal level, would be broadly similar to that of the provincial ombudsman. As 60% of Manitoba's population resides in Winnipeg, most Manitobans will potentially benefit from this change.

163. *The Legislative Assembly and Executive Council Conflict of Interest Act* referred to in our previous report, has been further amended to make it applicable to senior public servants, as well as elected provincial officials, and to provide a one-year "cooling off period" after such officials/employees leave office/employment before they can engage in business dealings with the provincial government.

3. Measures to ensure respect of rights between citizens

164. *The Testators Family Maintenance Act* was replaced in 1990 by *The Dependents Relief Act* which seeks to transfer the legal support obligation owed by a deceased person during life to that person's estate, where a dependent is without reasonable provision for maintenance and support.

165. Amendments have also been made this year to *The Family Maintenance Act*, *The Marital Property Act*, *The Wills Act*, and *The Intestate Succession Act* (replacing *The Devolution of Estates Act*), although in some cases the new legislation has not yet been proclaimed.

4. Services and programs, in addition to above measures and protections, designed to enhance the rights of citizens

166. Reference was made previously to *The Pay Equity Act*, created to achieve equal pay for work of equal value in the public service. The legislative program created by that Act has now been essentially completed vis-à-vis the public sector: the provincial civil service, crown corporations and crown agencies. The Government is now encouraging the voluntary extension of pay equity principles, along the lines set out in *The Pay Equity Act*, to the private sector.

5. Measures taken ... to enhance civil and political rights in Manitoba

167. As noted earlier, *The Mental Health Act* was substantially changed in 1988 with respect to detention of individuals at psychiatric facilities. These changes were the product of concerns arising in the context of the *Canadian Charter of Rights and Freedoms*, and comments made by the Manitoba Court of Appeal in *Thwaites v. Health Sciences Centre et al* (1988), 51 Man. R. (2d) 196, which found that the former provisions violated the right of patients to be free from arbitrary detention. The amended provisions of the Act were subsequently challenged in *Bobbie v. Health Sciences Centre* (1988), 56 Man. R. (2d) 208 (Q.B.), and were found to adequately safeguard a person's rights in a manner consistent with the Charter.

168. The Child Abuse Registry, referred to in our previous report, has been altered to provide significantly enhanced procedural protection and rights of appeal to persons whose names are being considered for inclusion in the Registry.

169. *The Child & Family Services Act* was amended in 1989 to create a positive obligation upon such third parties as teachers, who have observed situations of apparent child abuse, to report same to the responsible authorities.

170. In the context of Article 27 of the Covenant, our previous report referred to the Supreme Court of Canada decision requiring translation of various government documents and implementation of bilingual procedures, in order to comply with constitutional requirements. The Court's directions set different deadlines with respect to different types of records. In accordance with the Court's order, all public laws and regulations, rules of quasi-judicial tribunals, and all municipal legislation have now been re-enacted in both languages. Private and unconsolidated public acts are in the process of translation.

SASKATCHEWAN

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171. Saskatchewan's submission to Canada's Third Report under the Covenant will update to May 1st, 1990, the information contained in its previous reports. Saskatchewan's submission contains only an outline of changes to information contained in the first two

reports. Saskatchewan looks forward to providing a more detailed submission to be included in Canada's Fourth Report on the Covenant.

Articles 2 and 26

172. In 1989, the *Saskatchewan Human Rights Code* was amended to include "mental disability" as a prohibited ground of discrimination.

173. According to the 1989 Annual Report of the Saskatchewan Human Rights Commission, the Commission received 243 complaints in 1989, a 6% increase over 1988. Forty-eight percent (48%) of the complaints involved discrimination in employment, 24% in public services and 4% in housing. The alleged grounds of discrimination broke down as follows: sex - 26%; race, colour, place of origin or nationality - 18%; disability - 16%; marital status - 14%; age - 4%; religion - 3%; and other grounds - 19%.

174. The Human Rights Commission continues to order, approve and monitor affirmative action programs for the target groups of women, people of aboriginal ancestry and people with physical disabilities. The programs fall into three broad groups: 1) Employment, 2) Training and Education, 3) Education Equity. To date, 35 affirmative action programs have been approved by the Commission.

Article 3

175. *The Homesteads Act*, R.S.S. 1978, c. H-5, was amended in 1989 to extend its protection to men as well as women. Prior to the amendment a husband was prevented from alienating or otherwise dealing with a homestead without the written approval of his wife. That protection is now afforded to spouses of either gender.

Article 5

176. In 1989, the *Saskatchewan Human Rights Code* was amended to broaden the protection afforded against the publication or display of representations tending to expose to hatred, ridicule, belittlement or otherwise affronting the dignity of any person or group of persons on the basis of the Code's prohibited grounds of discrimination. The definition of "representation" is now open-ended and expressly includes "article" or "statement". The amendment was necessitated by a Court decision which held that newspaper articles were not covered by the former provision.

Article 7

177. For information on this Article, please refer to Saskatchewan's submission to Canada's Initial Report on the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*

Articles 13, 14, 15, 18, 23 and 24

178. *The Children of Unmarried Parents Act, The Deserted Spouses' and Children's Maintenance Act, The Infants Act*, and *The Legitimacy Act* are being repealed. Child and spousal maintenance will be dealt with under a single Act, *The Family Maintenance Act.* Custody and access, guardianship of children's property, child status and parentage will be governed by *The Children's Law Act.* These Acts are to be proclaimed October 1, 1990.

179. A major impact of these new Acts, relevant to this Covenant, is the elimination of distinctions among children based on legitimacy.

Article 18

180. The Saskatchewan Government now provides for the recognition of Independent Schools. This action allows parents to place their children in registered schools which reflect their religious beliefs.

Article 23

181. In 1988, the Premier of Saskatchewan tabled a paper on family issues at the annual Canadian Premiers' Conference in Saskatoon. The Premiers unanimously agreed to co-sponsor a Family Policy Conference hosted by Saskatchewan. In July, 1989, "Symposium About Families" was held in Regina, with 750 delegates from across the country.

182. As a consequence of the symposium, a Minister of The Family was appointed. The Family Foundation, an agency responsible for family policy was created.

183. The goal of the Family Foundation is to serve as a focal point for family policy in government and to evaluate the impact of government policies on Saskatchewan families. Another function of the Foundation is to establish and maintain effective communication with families in urban and rural communities through school, social groups, non-governmental agencies, human services agencies and religious organizations. An interdepartmental initiative, Forums about Families, will provide community family workshops, to be planned, organized and delivered by the communities themselves in response to their needs. The Foundation will not deliver or fund programs itself, but will be concerned with program delivery. The objectives of the Foundation will met through the work of other ministries of Government.

Article 27

184. The Report of the Task Force on Multiculturalism was released in September 1989. The Task Force was appointed by the Saskatchewan Government in July, 1988, to review all aspects of multiculturalism in Saskatchewan, including the related topics of immigration and settlement. Public hearings were held throughout the province and 147 briefs were presented. The Report contained 67 recommendations in the areas of: education, heritage languages, racism and discrimination, aboriginal concerns, immigration, employment, media and facilities.

185. Among the recommendations was the establishment of a Multiculturalism Secretariat whose mandate would include:

1. Administering *The Saskatchewan Multicultural Act.*

2. Providing a focal point to address multicultural issues through the established policy development and decision making structures of government.

3. Providing a co-operative structure within government for the development of initiatives aimed at meeting the needs of the multicultural and ethnocultural communities and new immigrants.

4. Monitoring and co-ordinating all multicultural programs and services across government departments.

ALBERTA

I. Introduction

186. The following updates the information provided in Alberta's section of Canada's second report on this Covenant.

II. Measures adopted to give effect to the Articles of the Covenant

Article 2 and others including 9, 14, 26

187. In January 1990, the Government of Alberta established the Task Force on the Criminal Justice System and its Impact on the Indian and Metis People of Alberta. The basic objective of this Task Force is to review the criminal justice system in Alberta as it relates to Indian and Metis people and to identify problems and propose solutions to ensure that they receive fair and equitable treatment at all stages of the criminal justice system. It is anticipated that a final report will be prepared by December 31, 1990. The estimated cost is $1 million, of which the federal government will pay 50% up to a maximum of $500,000.

188. Also, a Commission of Inquiry on Policing in Relation to the Blood Tribe of Southern Alberta was established. The Inquiry commenced in May 1989 and completed hearings in March 1990. Key issues include the Royal Canadian Mounted Police and/or Lethbridge City Police's investigation of a number of suspicious deaths, the Cardston Blockade and general police/Blood Tribe relations. The estimated cost is $2 million. The final report is scheduled for completion by July 1990.

189. See also responses under Articles 3 and 26.

Article 3

190. The Alberta Government has introduced the Plan for Action for Women to improve the status of women in the 1990's and beyond. This Plan contains goals which form the long-term framework for Government-wide action in the areas of the family, the workplace, education and training, health, the community, and the Alberta public service. It offers a direction to follow in addressing issues of concern to women. In particular, in the target area of the community, the Alberta government intends to achieve the goal of increasing opportunities for women to participate in public life. Each year, the Government announces specific initiatives under the Plan and identifies the departments responsible for their implementation.

191. (See also the Alberta Section of Canada's Second Report to the *Convention on the Elimination of All Forms of Discrimination against Women.*)

Article 9

192. The *Tuberculosis Act*, the *Venereal Diseases Protection Act* and the *Public Health Act*, R.S.A. 1980, c. P-27, were repealed and replaced by the *Public Health Act*, S.A. 1984, c. P-27.1. Under the new *Public Health Act*, when a person is infected with an organism that produces a disease prescribed in the regulations and refuses or neglects to submit to medical, surgical or other remedial treatment, or to comply with any other conditions that have been prescribed by a physician as necessary to mitigate the disease or to limit its spread to others, an isolation order may be issued. The isolation order is authority to observe, examine, care for, treat, control and detain the person until that person is released.

193. The *Mental Health Act*, R.S.A. 1980, c. M-13, was repealed and replaced by the *Mental Health Act*, S.A. 1988, c. M-13.1, proclaimed in force January 1, 1990. Under the new *Mental Health Act*, a person who is suffering from a mental disorder and is in a condition presenting or likely to present a danger to himself/herself or others and is unsuitable for admission other than by detention, may be detained.

194. A certificate of a physician is sufficient to detain a person at a facility for 24 hours. Two certificates issued by two physicians, after separate examination, are sufficient to detain a person for one month and the detention may be renewed. A judge may order a person to be examined, and a peace officer may convey a person to a facility for examination. When a person becomes a patient, the facility shall inform the patient and make a reasonable effort to inform his/her guardian and, unless the patient objects, his/her nearest relative, in simple language and in writing of the reason for his/her admission and of his/her right to apply to a review panel.

195. In the event of a language difficulty, the board shall obtain a suitable interpreter and provide the information and the required written statement in the language spoken by the formal patient or his/her guardian.

196. The patient may apply to a review panel for release and may appeal further to the Court of Queen's Bench. If a patient has been detained for a continuous period of six months, he/she shall be deemed to have applied to a review panel. Also, the Patient Advocate, who is appointed by the Lieutenant Governor in Council, shall investigate complaints from or relating to a patient who is detained.

Article 23

197. The "Certificates of incapacity" issued under the previous *Mental Health Act*, mentioned in Canada's initial report, no longer exist.

Article 24

198. Section 2.1 of the recently amended *Child Welfare Act* established the Office of the Children's Advocate. The Children's Advocate is mandated to advocate for children receiving services under the *Child Welfare Act*. The advocate's primary concern is to ensure that the child welfare system remains relevant and responsive to the needs of children by advocating for individual children and effecting positive changes to the system as a whole. The Children's advocate becomes involved on behalf of children as a result of requests or referrals from children or other interested parties, because of notifications from the Regional Operations system or his/her own initiative.

Article 26 (as related to article 2)

199. There are certain provisions in Alberta legislation that maintain a distinction between legitimate and illegitimate children. Section 47 of the *Domestic Relations Act* restricts the rights and obligations of the natural father with respect to an illegitimate child by restricting guardianship to the natural mother. The *Intestate Succession Act* permits an illegitimate child to inherit from his or her mother is she dies intestate but allows a claim against the father's estate only when the father dies leaving no widow or lawful offspring, and paternity is acknowledged or declared.

200. The *Maintenance Order Act* imposes liability on the father to provide maintenance for a legitimate child. Similar provisions exist in the *Maintenance and Recovery Act* for the protection of an illegitimate child to recover from his or her putative father.

201. Bill 53, the *Parentage and Maintenance Act*, recently received second reading in the Legislative Assembly and is anticipated to become law. Generally, the Bill is designed to address a number of *Charter of Rights* issues and concerns. It removes discriminatory distinctions between "legitimate" and "illegitimate" children under the *Maintenance and Recovery Act* but not those under the *Domestic Relations Act*, and the *Intestate Succession Act*. Significant provisions of this Bill include: child maintenance up to 18 from 16 years of age; time limitation for application extended from 2 years from birth to 18 years; child maintenance no longer terminates automatically on marriage of mother; corroboration of mother's evidence as to paternity no longer required; needs of legitimate children no longer given priority over needs of illegitimate children; the declared father is required to make maintenance payments to his child up to 18 years of age on a monthly or periodic basis; provisions for court-ordered blood tests; and provisions regarding circumstances when paternity is presumed. The Bill also changes the fundamental focus from determination of "fault" to recognition of joint responsibility for children of unmarried parents.

BRITISH COLUMBIA

Article 7

202. Major revision of the *Police Act* took place in 1988. It is now cited as *Police Act*, S.B.C. 1988, c. 53. A more detailed and precise citizen complaint procedure is included in part 9 of the Act.

203. A Complaint Commissioner is newly established as part of the Police Commission, and members of the public now have the option of presenting a complaint to their own local Police Chief, or, if they are not comfortable doing so, directly approaching the Complaint Commissioner. This individual monitors all investigations, and ensures that inquiries under Part 9 are open to the public.

Article 14

204. Late in 1987 the Government of British Columbia appointed a Justice Reform Committee with a mandate to ensure that the justice system of the province is accessible, understandable, relevant and efficient to all those who are involved with the system. It

reviewed rules of procedure and rules of evidence in civil law and criminal law, studied the structure and jurisdiction of various levels of courts, and the use of alternate dispute resolution. The Committee reported one year later with a broad range of 182 recommendations in the above areas as well as the use of plain language in the justice system, needs of special groups (i.e. disabled, mentally ill, recent immigrants), fees and costs, and use of technology for information management. Within months of release of the Report, a number of these recommendations were implemented by means of the *Justice Reform Statutes Amendment Act*, S.B.C. 1989, c. 30.

205. A new *Victim's Rights and Services Act*, S.B.C. 1988, c. 64, contains provisions respecting the rights of victims of offenses and provides for victim assistance services. The Act also allows for a victim fine surcharge to be applied to offenders.

Article 27

206. In 1988 the Government of British Columbia established a Ministry of Native Affairs with a mandate to form good working relationships between Native people and the provincial government; encourage and support social, cultural and economic initiatives for Native People; help Native Bands or Tribal Councils seeking self-government; help solve problems between Native people and the provincial government; and to advise the Cabinet Committee on Native Affairs on policy related to Native people.

PART III: GOVERNMENTS OF THE TERRITORIES

YUKON

Article 3

207. The *Miscellaneous Statute Law Amendment Act*, 1990, aims at substituting masculine pronouns with gender neutral pronouns in territorial legislation.

Article 6

208. The Yukon Government has hired a full-time Acquired Immune Deficiency Co-ordinator to implement training, education and support services to the general public and to individuals infected with the HIV virus.

209. A Child Abuse Treatment Service was recently initiated by the Department of Health & Human Resources and is designed to provide group treatment and support for the children who have been physically or sexually abused.

210. The Safe Places Program is designed to assist five Yukon communities to develop proposals for the establishment of local safe homes.

211. The Yukon Government has launched a Family Violence Initiative designed to increase and enhance support and educational services to victims and perpetrators of family

violence. A Suicide Prevention Strategy is also underway to co-ordinate and develop a comprehensive government and community response to the problem of suicide.

212. The *Pesticides Act*, 1990, governs the safe and secure disposal and storage of dangerous pesticides.

213. The Air Quality Program was undertaken to test a number of Whitehorse houses for levels of noxious and/or harmful gases. Yukon wide testing of radon gas is ongoing.

214. Recent amendments to the *Occupational Health & Safety Act* have further defined safety standards in the workplace.

215. A 24 hour Sexual Assault and Family Violence Information Line came into being on May 1st, co-sponsored by the Yukon Department of Justice and the Women's Directorate.

Article 7

216. The *Education Act*, 1990, prohibits the use of corporal punishment in Yukon schools.

Article 9

217. In May 1990, under the authority of the *Corrections Act*, 12 new Correctional Inspectors were appointed. Their mandate is to investigate complaints by inmates and make appropriate recommendations to the Director of Corrections and Law Enforcement.

Article 10

218. In September 1990, the Yukon Government opened the doors of the first separate "Secure" Juvenile Custody Facility in the territory.

219. The *Mental Health Act*, 1990, states that persons suffering from mental disorder should be provided with care and treatment in the least restrictive and least instrusive manner, and that the civil and human rights of persons suffering from mental disorders must be protected.

220. The legislative agenda for the Fall of 1990 includes the consideration of legislation pertaining to the guardianship of adults and the administration of estates of adults under the guardianship of the territorial government.

Article 11

221. Since August 1989, the Territorial Judiciary has stopped imposing fines with default time for territorial and municipal offenses. The Government is presently developing a civil remedies program to avoid incarcerating individuals solely on the basis of their inability to pay a fine.

Article 14

222. Beginning December 1990, all new territorial legislation will be drafted in both French and English.

223. As of September 1990, all *Criminal Code* forms used by the Yukon Government have been rendered bilingual.

Article 18

224. The *Education Act*, 1990, allows Roman Catholics to establish separate schools.

Article 23

225. On April 30, 1990, the Yukon Government and the Public Service Alliance of Canada (the government employee's union) signed an agreement to redefine "spouse" in the Collective Agreement to include same-sex common law relationships. Spousal rights and benefits as outlined in the Collective Agreement will now be extended to all couples in long term relationships.

226. The *Child Care Act*, 1990, emphasizes the need to involve parents in the development of quality child care and recognizes that comprehensive child care services are supportive of healthy families.

227. The *Education Act*, 1990, features provisions for greater involvement of parents in education and curriculum content.

228. An amendment to the *Student's Financial Assistance Act* allows the government to consider "family costs" when determining financial awards.

Article 24

229. The *Child Care Act*, 1990, sets out minimum standards for the provision of child care services in the Yukon.

230. The *Education Act*, 1990, focuses on all educational activities of students, including their rights and responsibilities. Included is the goal of developing "the whole child, including the intellectual, physical, social, emotional, cultural and aesthetic potential of all students to the extent of their abilities".

Article 27

231. On April 1, 1990, the Council for Yukon Indians, the federal government and the Yukon Government initialled the final Land Claims Settlement Agreement. This agreement must now be ratified by each of the Yukon First Nations.

232. A coalition of First Nations Bands have implemented a Tribal Justice system, which co-exists and interacts with the present justice system in the Yukon.

233. The *Education Act*, 1990, promotes the provision and access to native languages and cultural education in Yukon schools. Included in this Act is the ability of school boards to "enter into agreements with Yukon First Nations for the provision of educational services".

234. The *Education Act*, 1990, articulates the right of Yukon students to French language instruction.

NORTHWEST TERRITORIES

235. The court case referred to in paragraph 484 of the Second Report was heard at appeal [1988] N.W.T.R. 223 with the result that the legislation was found not to be in conflict with the Charter of Rights. The matter has now been argued before the Supreme Court of Canada but no decision has been rendered yet.